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REPORT OF THE UNITED NATIONS HIGH COMMISSIONER FOR REFUGEES, QUESTIONS RELATING TO REFUGEES, RETURNEES AND DISPLACED PERSONS AND HUMANITARIAN QUESTIONS

New international humanitarian order

Report of the Secretary-General

1. At its forty-ninth session, the General Assembly, in its resolution 49/170 of 23 December 1994, took note of the reports of the Secretary-General 1/ and expressed its appreciation for his continuing support for the efforts to promote a new international humanitarian order. The Assembly also requested Governments to make available to the Secretary-General, on a voluntary basis, information and expertise on humanitarian issues of special concern to them, in order to identify opportunities for future action. It also invited the Independent Bureau for Humanitarian Issues to continue and further strengthen its activities in cooperation with Governments and the governmental and non-governmental organizations concerned. The Assembly requested the Secretary-General to remain in contact with Governments, non-governmental organizations and the Independent Bureau for Humanitarian Issues and to report on the progress made by them to the General Assembly at its fifty-first session, at which it would review the question of a new international humanitarian order.

2. Since the inclusion of the item entitled "New international humanitarian order" in the agenda of the thirty-sixth session of the General Assembly, the Secretary-General has presented eight reports and transmitted to the Assembly the views of 48 Governments and a number of specialized agencies and non-governmental organizations. Once again, pursuant to Assembly resolution 49/170, the Secretary-General, on 10 June 1996, addressed communications to Governments and a number of non-governmental organizations requesting their contributions, views and information on the progress made by them in the implementation of the resolution. As at 31 August 1996, comments on the subject had been received from the Governments of Monaco and Turkey and from the

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Independent Bureau for Humanitarian Issues. The texts of those communications are annexed to the present report.

3. The contribution of the Independent Bureau for Humanitarian Issues underlines the need to further build upon and strengthen existing humanitarian instruments and mechanisms in order to ensure rigorous respect for humanitarian norms and to devise more effective means for the implementation of humanitarian programmes of assistance.

4. The attention of the General Assembly is also invited to the reports submitted by the Secretary-General 2/ pursuant to its resolution 46/182 and subsequent resolutions 3/ on the strengthening of the capacity of the United Nations system to respond to humanitarian emergencies. In those reports, the Secretary-General addressed questions relevant to the development of a new international humanitarian order.

Notes

1/ A/37/145, A/38/450, A/40/348 and Add.1 and 2, A/41/472, A/43/734 and Add.1, A/45/524, A/47/352 and A/49/577 and Corr.1.

2/ A/50/203-E/1995/79 and A/51/172-E/1996/77.

3/ General Assembly resolutions 47/168, 48/57, 49/139 and 50/57 and Economic and Social Council resolution 1995/56.

ANNEX

Replies received from Governments and the Independent Bureau for Humanitarian Issues

MONACO

[Original: French]

[14 June 1996]

1. The Permanent Representative of the Principality of Monaco to the United Nations presents his compliments to the Secretary-General of the United Nations and, in reply to the latter's note verbale of 10 June 1996 concerning General Assembly resolution 49/170, has the honour to inform him that his Government is deeply concerned at the obstacles of all kinds which sometimes hamper the application of international humanitarian law, particularly in times of armed conflict. Among the measures that Member States could consider to overcome these obstacles and ensure the protection of the most vulnerable members of the civilian population, especially children, women and the elderly, is the preparation of an international convention on the establishment and operation of humanitarian zones.

2. Such zones, which, under certain conditions and circumstances, could be obligatory for the States Parties to an instrument of this kind, must be provided with neutral means of access (roads, airports, rivers or ports, etc.) in order for the essential food and medical needs of the people benefiting from protection to be met without obstacles or hindrance.

3. At the preliminary stage, Member States and specialized agencies should be consulted about the timeliness of such an instrument, its content and the form it might take, inasmuch as it may prove useful before a convention is adopted to adopt a General Assembly recommendation or declaration that would be less binding than a convention but broader in scope.

4. The Principality of Monaco considers the humanitarian role of the United Nations to be a priority of a higher moral order, arising from a peremptory norm of international law (jus cogens). Its role in protection is essential and fully complementary to that of the International Committee of the Red Cross and United Nations organizations such as the Office of the High Commissioner for Refugees and UNICEF.

TURKEY

[Original: English]

[25 July 1996]

1. Owing to the rise in the population needing international protection and international humanitarian assistance, and the limitation of sources, international humanitarian assistance should be provided more efficiently with a wider perspective.

2. Turkey is committed to the internationally accepted principles concerning humanitarian assistance and continues to provide humanitarian aid either directly from Government to Government or through various international humanitarian organizations.

3. The 1949 Geneva Conventions and additional protocols form the legal framework of international humanitarian issues and they are constantly evaluated in relevant international forums.

4. There should be no objection to enhancing the social dimension of humanitarian assistance, that is to protect and meet the needs of the people affected by natural and man-made disasters. Activities such as the protection of women and children during armed conflicts, protection of fresh water resources, prevention of famine, reunification of families, prohibition of certain types of weapons, assistance to refugees, to displaced persons and to the victims of natural or technological disasters, integration of long-term development assistance with humanitarian assistance, consideration of the humanitarian impact of economic sanctions, protection of the independent nature of humanitarian activities during a crisis, and enhancing the capabilities of non-governmental organizations in providing humanitarian assistance are continuously gaining importance and attracting wider public attention.

5. Without exception, all kinds of humanitarian assistance must be carried out with due respect for the sovereignty of States. This aspect of humanitarian assistance has been emphasized by the Turkish representatives as well as representatives of other countries at various international meetings on humanitarian assistance. On the other hand, some countries defend granting to international humanitarian organizations unrestricted access to countries that have internally displaced persons or refugees, in order to provide direct protection or direct assistance within their mandates. Until now a consensus or common understanding on the matter has not been reached.

INDEPENDENT BUREAU FOR HUMANITARIAN ISSUES

[Original: English]

[10 September 1996]

Introduction

1. In its resolution 49/170 of 23 December 1994 on a new international humanitarian order, the General Assembly invited the Independent Bureau for Humanitarian Issues to continue and further strengthen its activities in cooperation with the governmental and non-governmental bodies concerned. It is recalled that the Assembly, when considering at its forty-second session the final report of the Independent Commission on International Humanitarian Issues, a/ took note of the establishment of the Bureau to disseminate and follow up the work of the Independent Commission (resolution 42/121 of 7 December 1987).

2. The present report is a succinct account of the activities of the Independent Bureau in terms both of its original mandate of dissemination and follow-up and additional activities it has undertaken in keeping with the subsequent resolutions of the General Assembly. b/

Dissemination and follow-up

3. The final report of the Independent Commission as well as the eight sectoral reports supplementing it c/ have been published in book form in almost all the major languages of the world. Over 60 editions have appeared in various countries in Africa, Asia, North and South America and western and eastern Europe. They have been used by various Governments in their policy-making process as well as by intergovernmental bodies, non-governmental organizations and educational institutions. The demand for editions in local languages, notably in countries facing humanitarian emergencies, continues.

4. The follow-up activities have included consultations and discussions with Governments and international organizations for the implementation of the recommendations of the Independent Commission. Out of 160 specific recommendations relating to various humanitarian issues, over 120 have been implemented and incorporated into national and regional policies or have served as international guidelines for action.

5. In order to ensure a wider outreach to the public without access to books, a series of six television documentaries entitled Humanitas were prepared on the basis of the sectoral reports. They were broadcast by national television networks in a number of countries, notably in Africa and Asia, as well as in educational institutions in Europe and elsewhere.

6. The objectives of the Independent Bureau have remained the same as those pursued by the Independent Commission, i.e., to study specific humanitarian issues that have been inadequately dealt with to date or that call for solutions in line with new realities; to identify opportunities for more effective action by the international community and to make practical, action-oriented proposals

to that end; to enhance public awareness of the conditions that create and perpetuate human suffering; and to strengthen efforts at governmental and non-governmental level to bring about appropriate changes and adjustments.

Other activities

7. In line with the invitation of the General Assembly to further strengthen its activities, the Independent Bureau has also undertaken action-oriented research, not only on humanitarian issues but also on humanitarian situations of concern to the international community; evaluation of humanitarian aid programmes; and capacity-building and technical training relating to humanitarian problems of local staff within and outside government structures in disaster-prone countries. These additional activities have been undertaken by the Independent Bureau with the support of both Governments and the international organizations concerned.

8. The Independent Bureau has, in particular, paid attention to countries and regions with actual or potential armed conflicts. For example, analytical studies including concrete recommendations for action have been undertaken in relation to situations in Central and South Asia, the Balkans, etc.

9. The capacity-building and technical training activities of the Bureau have included formation and strengthening of local non-governmental organizations; information dissemination; and advocacy as well as advisory services to governmental and non-governmental bodies within disaster-stricken countries. These activities have been limited only to man-made disasters and notably to situations of internal armed conflict and the consequent displacement of populations.

10. Recognizing the importance of access of people at the grass-roots level to international documents relating to human rights and humanitarian issues, and to facilitate the task of international observers and monitors, the Independent Bureau has also undertaken to publish a series of books in local languages, notably in the Balkans and the Caucasus.

11. The Bureau is also addressing some of the humanitarian problems of growing dimensions. For example, it is playing an advocacy role regarding problems such as statelessness and mass expulsions and carrying out related action-oriented research. The Bureau is also in the process of publishing nationality laws of all countries, a task that has been neglected since the publication of those laws by the United Nations in 1959.

Future activities

12. With the support of Governments and intergovernmental and non-governmental organizations, the Bureau proposes to continue, and expand as required, the activities outlined above. In addition, specifically in the context of efforts to promote a new international humanitarian order, the Bureau proposes to undertake activities in line with the views expressed by various Governments and international bodies as communicated to the Secretary-General and transmitted by him to the General Assembly.

13. It is worth noting in this connection that the agenda item relating to the humanitarian order has been used in past years as a kind of umbrella item for addressing special concerns of Member States. It is thus that a series of resolutions were adopted by the General Assembly for strengthening international action regarding man-made and natural disasters as well as international cooperation in the humanitarian field. The Independent Bureau proposes to support this trend, particularly in view of the increasingly felt need that emerging problems and "grey areas" in the humanitarian field need to be more adequately addressed.

14. In this context, the Independent Bureau is of the view that there is need for developing an "Agenda for Humanitarian Action" by the United Nations, similar to what has been done by the Secretary-General in other important domains (Agenda for Peace, Agenda for Development).

15. The Bureau also wishes to support the idea that the fiftieth anniversary, in 1998, of the adoption of the Universal Declaration of Human Rights, a landmark in the development of international action for respect of those rights and for preservation of the dignity of the human person, be appropriately celebrated. The celebration should not only mark the progress made in recent decades in the field of human rights but also be an occasion to reinvigorate the efforts for greater respect for fundamental human rights and freedoms and for further articulation of those humanitarian principles and norms which can more adequately address contemporary and emerging humanitarian problems. The anniversary should thus serve as a bridge between human rights and humanitarian issues and an occasion to better prepare for the next century.

16. The Independent Bureau is sensitive to the fact that in the post-cold-war era there is need for a reassessment of international responses to humanitarian challenges. The fundamental changes in the world scene and the promise they held in the early 1990s, which many celebrated as the "new world order", must not be allowed to degenerate into a dismal landscape of internal armed conflicts, widespread ethnic rivalries, unbridled nationalism and a multitude of humanitarian problems adversely affecting human well-being in all continents. There is, consequently, a dire need for renewed efforts regarding standard-setting in the humanitarian field and for more effective implementation of existing norms and principles.

17. The General Assembly may wish in this connection to initiate a process of evaluation regarding the adequacy of international legislation and practices in the humanitarian field and of developing guidelines and instruments that can preserve and further strengthen the existing humanitarian infrastructure for the benefit of future generations.

18. Specifically, with regard to the promotion of a new international humanitarian order, it is recalled that when the item was proposed for inclusion in the agenda of the General Assembly, it was suggested that a universal declaration formulating certain fundamental humanitarian principles and inviting the assent of the international community of States to it should be framed. d/ The suggestion was made in the specific context of humanitarian law and the argument was based on the observation that a code of conduct was necessary for the law of peace, which should receive as much attention as the law of war had

in the 1949 Geneva Conventions and the 1977 Protocols. The code was to be designed primarily as a moral standard and guide to compassionate action in the face of human suffering. e/

19. In broader terms, however, the vast number of existing international instruments, declarations and resolutions could serve as the building blocks of the proposed order. A realistic beginning could be to address a few selected humanitarian issues which, in recent years, have caused deep concern to Governments and unnecessary suffering to millions of people that could be mitigated or avoided if the world community were to ensure the observance of a set of basic rules of conduct. Distinct from the framework of fundamental human rights and freedoms, such an approach would concentrate on practical humanitarian problems whose continuing growth needs to be vigorously discouraged through solidarity with the victims as much as the human suffering they entail needs to be alleviated.

20. A glaring example of such problems is the phenomenon of internally displaced persons whose number worldwide has now largely surpassed that of refugees. The latter received considerable attention during the cold war period as regards international legislation and practice while the former are still in a "grey area" even though they are often in an analogous situation to refugees in terms of hardship. International funds and national efforts are often diverted from developmental activities to immediate relief operations but the protection of internally displaced persons remains ad hoc and calls for well-defined rules of conduct for the international humanitarian actors as well as the Governments concerned.

21. A related phenomenon which has affected millions of people in recent decades is that of forced relocation of populations. These are carried out by Governments in the name of economic development, or as a result of internal tensions, but they are often motivated by political considerations and usually affect vulnerable groups.

22. Another recurrent problem is that of mass expulsions involving widespread hardship and avoidable suffering. While expulsion of individuals is regulated by national legislation, the phenomenon of mass expulsion calls for international attention. A provision regarding mass expulsion is included in the African Charter on Human and Peoples' Rights which could help in international standard-setting. In recent years, owing to fragmentation of States into newly independent countries, the twin problems of forced relocation of populations and mass expulsions, including the so-called "ethnic cleansing" operations, have resulted in the involuntary displacement of millions of people as well as considerable suffering and loss of life and property. A set of internationally approved principles regulating the conduct of Governments and communities could go a long way to containing these recurrent involuntary movements of populations including minority groups.

23. In recent decades, the nature of armed conflict has radically changed. War between countries is, by and large, replaced by armed conflicts between people and communities. These internal conflicts have claimed more lives than the total number of casualties during the two world wars. This has necessitated a broader interpretation of the "threat to peace and security" as foreseen in the

Charter of the United Nations and has involved actions by the Security Council not only in situations of internal conflict but also in the humanitarian efforts they entail. Certain aspects of this growing phenomenon call for better-defined rules of conduct.

24. Likewise, Chapter VIII of the Charter relating to regional organizations deals mainly with threats to peace and security. It could serve as a basis for broader definition of the role of regional organizations in the field of humanitarian emergencies, in terms of both preventive and security measures.

25. In this connection, it is important also to highlight the importance of local capacity-building and strengthening of indigenous non-governmental organizations. Because they involve people at grass-roots level, their direct relevance to the process of greater democratization cannot be denied any more than the value of their contribution to human well-being on the basis of empathy and better understanding of local needs and conditions. They are also more cost-effective. International non-governmental organizations and donors that play a vital role in humanitarian emergencies need to take this aspect into account. This can be facilitated by an agreed set of principles regarding international support for the efforts to establish or strengthen local non-governmental organizations.

26. It is axiomatic that humanitarian problems such as those enumerated above would not become crisis situations if their root causes were addressed in time. It is possible without unnecessary infringement of sovereign prerogatives of States to encourage indigenous non-governmental organizations, supported when necessary by independent and impartial international non-governmental organizations, to initiate timely action. However, to do so, they would require increased financial support. This increase would be easily validated through the economy of resources resulting from prevention or containment of future emergencies. For measures of prevention and containment to be effective, there is need to develop an international consensus regarding a modus operandi which takes fully into account the sensitivities involved.

27. The future activities of the Independent Bureau would be geared, inter alia, to contributing towards the solution of the humanitarian problems mentioned in the preceding paragraphs. To begin with, the Bureau proposes to assist in the elaboration of a declaration of principles relating to humanitarian emergencies.

28. The declaration would articulate the inter-linked aspects of concerted efforts which such emergencies call for:

(a) The rights of the victims with regard to protection and assistance;

(b) The related duties of the States concerned;

(c) The responsibilities of the international and national humanitarian actors.

29. It would elaborate on a strategy of prevention and containment and highlight, inter alia, the following issues:

(a) Solidarity with the victims;

(b) The involvement of regional institutions at all stages of a humanitarian emergency;

(c) The need to develop a more adequate modus operandi which ensures rapid deployment of humanitarian actors;

(d) Implementation of quick-impact projects for the benefit and protection of victims;

(e) The need for local capacity-building in humanitarian emergency areas.

30. The purpose of the proposed declaration of humanitarian principles is not, however, to address in detail all aspects of humanitarian emergencies but rather to articulate those principles which, through the practice of States and international organizations, have already become norms to be respected and which need to be codified and further strengthened. This could be the beginning of a process of concerted international effort which could serve as an integral part of the bridge to the next century.

Notes

a/ Winning the Human Race (Zed Books, London and New Jersey, 1988). Also published in Arabic, French, Japanese, Italian, Russian and Spanish.

b/ Resolutions 43/129 of 8 December 1988, 45/101 of 14 December 1990 and 47/106 of 16 December 1992.

c/ Famine: A Man-made Disaster?; The Vanishing Forest: The Human Consequences of Deforestation; The Encroaching Desert: The Consequences of Human Failure; Street Children: A Growing Urban Tragedy; Modern Wars: The Humanitarian Challenge; Disappeared: Technique of Terror; Refugees: Dynamics of Displacement; Indigenous Peoples: A Global Quest for Justice.

d/ A/36/245, para. 6.

e/ Ibid., para. 7.